

CHAPTER NO. 417

HOUSE BILL NO. 361

By Representative Newton

Substituted for: Senate Bill No. 601

By Senator Cohen

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 51, Part 1, relative to the state lottery.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-51-105(a), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) To sue and be sued as provided in this chapter;

SECTION 2. Tennessee Code Annotated, Section 4-51-110, is amended by deleting subsections (e), (f) and (g) in their entirety and by substituting instead the following:

(e) All offers of employment shall be extended contingent upon the results of a criminal history records check. Immediately upon the acceptance of the offer of employment the chief executive officer or such officer's designee, shall submit the names of such persons to the Tennessee bureau of investigation. The Tennessee bureau of investigation, pursuant to § 38-6-109, shall conduct a criminal history records check on all such persons. The Tennessee bureau of investigation may contract with the federal bureau of investigation, other law enforcement agency or any other legally authorized entity to assist in such investigation. Such persons shall supply a fingerprint sample on request and in the manner requested by the investigating entity. The Tennessee bureau of investigation shall conduct such investigation as soon as practicable after submission of names by the chief executive officer or such officer's designee. The corporation shall pay, as an operating expense, the cost of the records check. The results of such a records check shall not be considered a record open to the public pursuant to title 10, chapter 7, part 5.

(f) In addition to any records check pursuant to subsection (e), those persons accepting an offer of employment with the corporation at the level of division director and above and at any level within the division of security and as otherwise required by the board, shall immediately have their names submitted by the chief executive officer, or such officer's designee, for a background investigation which may be conducted by the Tennessee bureau of investigation or other law enforcement agency or any other legally authorized investigative entity. Such investigation shall be conducted as soon as practicable after submission of names by the chief executive officer or such officer's designee. The corporation shall pay, as an operating expense, the cost of the investigation. The results of such investigation shall not be considered a record open to the public pursuant to title 10, chapter 7, part 5. Such person's offer of employment shall be further contingent upon the results of such investigation.

(g) No person shall be maintained as an employee of the corporation who has been convicted of:

(1) Any felony

(2) A misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor;

(3) Any violation of this chapter; or

(4) Any offense in a federal court, military court or court of another state, territory or jurisdiction which under the laws of this state would disqualify such person pursuant to subdivisions (1), (2) or (3).

(h) The corporation shall bond corporation employees with access to corporation funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

SECTION 3. Tennessee Code Annotated, Section 4-51-111(b), is amended by deleting subdivision (3)(B) in its entirety and by substituting instead the following:

(B) Except as provided in subdivision (b)(3)(D), the amount of the general shortfall reserve subaccount shall equal fifty million dollars (\$50,000,000). Prior to July 1, 2005, a transfer to the general shortfall reserve subaccount shall be made from the lottery for education account in an amount sufficient to raise the amount deposited into the subaccount prior to such transfer to a total of fifty million dollars (\$50,000,000). Thereafter, only an amount necessary to maintain the general shortfall reserve subaccount in an amount equal to fifty million dollars (\$50,000,000) shall be deposited into the subaccount.

SECTION 4. Tennessee Code Annotated, Section 4-51-111(b), is amended by deleting the last two sentences of subdivision (3)(C) and by substituting instead the following:

Five percent (5%) of net lottery proceeds shall be deposited into the lottery for education account each quarter until the amount of the general shortfall reserve subaccount equals fifty million dollars (\$50,000,000). Notwithstanding any provision of this subdivision (b)(3)(C) to the contrary, the program reduction and repayment provisions of this subdivision (b)(3)(C) shall not be triggered if amounts in excess of fifty million dollars (\$50,000,000) are recommended for appropriation pursuant to subdivision (b)(3)(D).

SECTION 5. Tennessee Code Annotated, Section 4-51-111(b), is amended by deleting from subdivision (3)(D) the language "provided that 'adequate funds' shall not be deemed to be available if such recommended appropriation would reduce the general shortfall reserve account below the accumulated total amount established by the provisions of subdivision (b)(3)(B)." and by substituting instead the following language:

provided that "adequate funds" shall not be deemed to be available if such recommended appropriation would reduce the general shortfall reserve account below fifty million dollars (\$50,000,000).

SECTION 6. Tennessee Code Annotated, Section 4-51-115(c)(1), is amended by deleting the following language:

but shall be paid no additional compensation for cashing such lottery tickets or shares

SECTION 7. Tennessee Code Annotated, Title 4, Chapter 51, Part 1, is amended by adding the following language as a new section:

Section 4-51-135.

(a) The corporation is immune from all tort causes of action. Notwithstanding § 4-51-101(c) or any other law to the contrary, the corporation shall be considered a state agency for purposes of title 9, chapter 8, parts 3 and 4; provided that the corporation shall not be considered a state agency for purposes of contract and workers' compensation actions. Actions for workers' compensation and contract actions as provided in this chapter may be brought against the corporation only in the chancery court for Davidson County.

(b) Corporation employees shall be considered state employees for purposes of §§8-42-103, 9-8-112 and 9-8-307; provided that such employees shall not be considered state employees for workers' compensation coverage pursuant to §9-8-307(a)(1)(K).

(c) The corporation shall have the authority to participate in the department of treasury's property/casualty risk program pursuant to title 12, chapter 3, part 9, for all buildings and building contents owned by the corporation or for which the corporation is contractually obligated to insure.

(d) The corporation shall pay to the state, as a premium, any contribution required by the risk management fund under this section.

(e) It is the legislative intent that the state shall incur no additional liability as a result of this section.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 26, 2005



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 2005



PHIL BREDESEN, GOVERNOR